

#### **§ 4.435**

##### **§ 4.435 Evidence.**

(a) All oral testimony shall be under oath and witnesses shall be subject to cross-examination. The administrative law judge may question any witnesses. Documentary evidence may be received if pertinent to any issue. The administrative law judge will summarily stop examination and exclude testimony which is obviously irrelevant and immaterial.

(b) Objections to evidence will be ruled upon by the administrative law judge. Such rulings will be considered, but need not be separately ruled upon, by the Board in connection with its decision. Where a ruling of an administrative law judge sustains an objection to the admission of evidence, the party affected may insert in the record, as a tender of proof, a summary written statement of the substance of the excluded evidence and the objecting party may then make an offer of proof in rebuttal.

##### **§ 4.436 Reporter's fees.**

Reporter's fees shall be borne by the Bureau.

##### **§ 4.437 Copies of transcript.**

Each party shall pay for any copies of the transcript obtained by him. Unless a summary of the evidence is stipulated to, the Government will file the original copy of the transcript with the case record.

##### **§ 4.438 Summary of evidence.**

The parties and the Bureau may, with the consent of the administrative law judge, agree that a summary of the evidence approved by the examiner may be filed in the case in lieu of a transcript. In such case the administrative law judge will prepare the summary or have it prepared and upon agreement of the parties make it a part of the case record.

##### **§ 4.439 Action by administrative law judge.**

Upon completion of the hearing and the incorporation of the summary or transcript in the record, the administrative law judge will send the record and proposed findings of fact on the issues presented at the hearing to the

#### **43 CFR Subtitle A (10-1-06 Edition)**

Board. The proposed findings of fact will not be served upon the parties; however, the parties and the Bureau may, within 15 days after the completion of the transcript or the summary of the evidence, file with the Board such briefs or statements as they may wish respecting the facts developed at the hearing.

#### **CONTEST AND PROTEST PROCEEDINGS**

##### **§ 4.450 Private contests and protests.**

###### **§ 4.450-1 By whom private contest may be initiated.**

Any person who claims title to or an interest in land adverse to any other person claiming title to or an interest in such land or who seeks to acquire a preference right pursuant to the Act of May 14, 1880, as amended (43 U.S.C. 185), or the Act of March 3, 1891 (43 U.S.C. 329), may initiate proceedings to have the claim of title or interest adverse to his claim invalidated for any reason not shown by the records of the Bureau of Land Management. Such a proceeding will constitute a private contest and will be governed by the regulations herein.

###### **§ 4.450-2 Protests.**

Where the elements of a contest are not present, any objection raised by any person to any action proposed to be taken in any proceeding before the Bureau will be deemed to be a protest and such action thereon will be taken as is deemed to be appropriate in the circumstances.

###### **§ 4.450-3 Initiation of contest.**

Any person desiring to initiate a private contest must file a complaint in the proper land office (see § 1821.2-1 of chapter II of this title). The contestant must serve a copy of the complaint on the contestee not later than 30 days after filing the complaint and must file proof of such service, as required by § 4.422(c), in the office where the complaint was filed within 30 days after service.

###### **§ 4.450-4 Complaints.**

(a) *Contents of complaint.* The complaint shall contain the following information, under oath: